

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division**

PLENTYOFFISH MEDIA, INC.,

Plaintiff,

vs.

ANH TRAN,

Defendant.

CIVIL ACTION NO.: 1:09CV1152 TSE/TRJ

**DEFENDANT TRAN'S DECLARATION  
IN SUPPORT OF DEFENDANT TRAN'S  
MOTION TO DISMISS**

**DEFENDANT TRAN'S DECLARATION IN SUPPORT OF  
DEFENDANT TRAN'S MOTION TO DISMISS**

I, Anh Tran, declare as follows:

1. I have personal knowledge of the matters set forth in this Declaration, except as to those matters set forth on information and belief, and as to those matters I am informed and believe them to be true. If called as a witness, I could and would testify competently to the matters set forth herein.

2. I am the registrant of the domain name freedatingfish.com. I also own and operate the website located at that domain name ("Website").

3. The Website does not purposely display the alleged mark "plentyoffish" anywhere in the Website's content or its source code. Attached hereto as Exhibits 1 and 2 are true and correct screenshots of the Website's index page and source code.

4. The only instance in which the alleged mark "plentyoffish" appeared on my Website was due to the Plaintiff placing the mark there. Plaintiff participates in the Google Adwords program, wherein Google places advertisements of its customers (including Plaintiff) on various

Internet sites, including my Website. I have no control over whether the Google algorithm chooses to display Plaintiff's ad on my Website. However, Plaintiff can choose which websites it wants its advertisements (and its alleged mark) to appear or not to appear. Therefore, Plaintiff could have removed its mark from my Website, whereas I had no control over it. Attached hereto as Exhibit 3 are true and correct screenshots of Google's description of its Google Adwords program.

5. On November 16, 2009, I visited dictionary.com (dictionary.reference.com) and looked up the definition for the phrase "there are plenty of fish in the sea." Attached hereto as Exhibit 4 is a true and correct screenshot of the dictionary.com result.

I declare under penalty of perjury the foregoing is true and correct. Executed this 16<sup>th</sup> day of November, 2009.

/s/ Anh Tran

Anh Tran

**CERTIFICATE OF SERVICE**

I hereby certify that on the 16<sup>th</sup> day of November, 2009, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

Thomas M. Dunlap, Esq. (VSB #44016)  
David Ludwig, Esq. (VSB #73157)  
*Dunlap, Grubb & Weaver, PLLC*  
199 Liberty Street, SW  
Leesburg, VA 20175  
Phone: (703) 777-7319  
Fax: (703) 777-3656  
dludwig@dglegal.com  
*Counsel for Plaintiff Plentyoffish Media, Inc.*

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/s/  
Domingo J. Rivera, Esq. (VSB # 71407)  
*Domingo J. Rivera, Attorney at Law, PLC*  
11551 Nuckols Road, Suite N  
Glen Allen, VA 23059  
Phone: (804) 332-6585  
Fax: (866) 651-2004  
djr@cyberinternetlawyer.com  
*Counsel for Defendant Anh Tran*